

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT NEW MEXICO**

THE CINCINNATI INSURANCE COMPANY,)
))
Plaintiff,))
))
v.) No. Civ. 18-981 JCH-SCY
))
DESERT STATE LIFE MANAGEMENT;))
CHRISTOPHER MOYA, in his capacity as))
Receiver for the receivership estate of DESERT))
STATE LIFE MANAGEMENT; PAUL A.))
DONISTHORPE; and CAMERON GRAHAM as))
trustee for ANDREW GRAHAM, JOSEPH))
PEREZ, CHARLES REYNOLDS on behalf J.W.,))
VINCENT ESQUIBEL, and ISAAC BLACK on))
behalf of and as trustee for JEFFREY BLACK, on))
behalf of themselves and all others similarly))
situated;))
))
Defendants.)

JOINT REPORT REGARDING STATUS OF SETTLEMENT AGREEMENT

Pursuant to the September 9, 2021 Order of Judge Judith C. Herrera, the parties submit this status report regarding the status of the final settlement agreement.

The Settlement Agreement, which involves the settlement of *Graham v. Desert State, et al.*, case number 20cv956 in the Second Judicial District Court and third-party complaint filed therein by Paul Donisthorpe against Cincinnati Insurance and Evanston Insurance; this insurance coverage litigation; the *Evanston v. Desert State Life Management, et al.* insurance coverage litigation, Case No. 18-cv-00654 in this court; and *Graham v. Evanston Ins. Co.*, Case No. D-202-cv-2020-04888 in the Second Judicial District Court was fully executed by all parties.

The settlement of this litigation is subject to the approval of the settlement by the Second Judicial District Court in the class action lawsuit *Graham v. Desert State, et al.*, case number

20cv956 in the Second Judicial District Court and to class certification by that court, the entry of a final approval order, in addition to the other conditions set forth in the settlement agreement.

On August 23, 2021, Judge Joshua A. Allison entered the final order approving the Settlement Agreement in the *Graham v. Desert State, et al.* class action lawsuit. Pursuant to the Settlement Agreement, the Effective Date of this settlement will be September 23, 2021. Pursuant to the Settlement Agreement, the settlement must be funded by Cincinnati and Evanston Insurance Company no later than fourteen days thereafter, that is, by October 7, 2021. The parties agreed in the Settlement Agreement that Cincinnati shall file a notice of voluntary dismissal with prejudice of this action within seven calendar days after full funding of the initial \$1.8 million settlement fund.

Based on the foregoing, Cincinnati anticipates that it will be in a position to file a notice of voluntary dismissal with prejudice of this action on October 14, 2021.

Plaintiff, The Cincinnati Insurance Company

By its counsel:

PETERS & NYE LLP

By: /s/ Nancy K. Tordai (Submitted Electronically
9/17/2021)

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Defendant, Desert State Life Management and Christopher Moya, in his capacity as Receiver for the receivership estate of Desert State Life Management

By their counsel:

/s/ Kevin A. Graham

Kevin A. Graham
COUNSEL FOR CHRISTOPHER MOYA,
in Defendant Moya's capacity as Receiver for the
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/s/ Joshua A. Spencer

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Defendants, CAMERON GRAHAM as trustee for ANDREW GRAHAM, JOSEPH PEREZ, CHARLES REYNOLDS on behalf J.W., VINCENT ESQUIBEL, and ISAAC BLACK on behalf of and as trustee for JEFFREY BLACK, on behalf of themselves and all others similarly situated

By their counsel:

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Defendant, Paul A. Donisthorpe

By His Counsel:

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CERTIFICATE OF SERVICE

I hereby certify that on September 17, 2021 I filed the foregoing pleading electronically through the CM/ECF system, causing it to be served by electronic means on all counsel of record.

/s/ Nancy K. Tordai
Nancy K. Tordai